AMENDED IN SENATE AUGUST 17, 2009 AMENDED IN SENATE JUNE 2, 2009 AMENDED IN ASSEMBLY APRIL 14, 2009 AMENDED IN ASSEMBLY MARCH 25, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Portantino (Coauthors: Senators Correa and Negrete McLeod)

February 4, 2009

An act to add and repeal Section 18005 of the Government Code, relating to state employment, and declaring the urgency thereof, to take effect immediately. An act to amend Section 9321 of the Commercial Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as amended, Portantino. State employment: salary freeze. *Business*.

Until January 1, 2010, existing law provides that a licensee in ordinary course of business, as defined, takes its rights under a nonexclusive license free of a security interest in the intangible created by the licensor and takes its leasehold interest free of a security interest in the goods created by the lessor, as specified.

This bill would extend the operation of that provision to January 1, 2013.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. Existing law requires the

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salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Existing law allows the state to enter into memoranda of understanding relating to employee-employee relations with employee organizations representing certain state employees.

This bill would make findings and declarations regarding the budget deficit facing the state. The bill would, until 24 months after these provisions take effect, prohibit a person employed by the state whose base salary on or after the effective date of the bill is greater than \$150,000 per year from receiving a salary increase while employed in the same position or classification, and from receiving a bonus or other compensation in excess of that person's base salary. The bill would exempt from this prohibition a person whose compensation is governed by an operative memorandum of understanding, as described above, a person who has been exempted by executive order of the Governor, as specified, and a person whose salary is set pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃-majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9321 of the Commercial Code, as 2 amended by Section 15 of Chapter 567 of the Statutes of 2006, is 3 amended to read:
 - 9321. (a) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.
 - (b) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

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(c) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

- (d) This section shall remain in effect only until January $1,\frac{2010}{2013}$, and as of that date is repealed, unless a later enacted statute, that is enacted before January $1,\frac{2010}{2013}$, deletes or extends that date.
- SEC. 2. Section 9321 of the Commercial Code, as amended by Section 16 of Chapter 567 of the Statutes of 2006, is amended to read:
- 9321. (a) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.
- (b) This section shall become operative on January 1, $\frac{2010}{2013}$.
- SECTION 1. Section 18005 is added to the Government Code, to read:
- 18005. (a) The Legislature finds and declares all of the following:
- (1) For several years, the State of California has faced budget deficits requiring cuts and changes in priorities in order to fund state activities.
- (2) In recent months, the United States economy has been dealt severe blows due to the credit crisis and the housing market crisis, and their resulting effects upon the financial markets.
- (3) The ongoing structural deficit in state finances, complicated by worsening economic developments, has created a fiscal crisis in the governance of the state.
- (4) After a nearly three-month deadlock, the Legislature passed the \$103.4 billion Budget Act of 2008 that addressed a \$15.2 billion budget shortfall.
- (5) As the new fiscal year begins, the state is once again facing a large budget shortfall. In the third quarter of 2008, the state took in \$1.1 billion less than projected. Economic conditions, including declining property values and stock prices and soaring unemployment rates, have generated capital losses rather than capital gains and reduced sales tax, property tax, and income tax revenues. These conditions have been estimated to lead to a

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1 minimum of an \$8 billion budget deficit entering the 2009–10 budget year.

- (6) In addition, the state may be required to spend as much as \$3.5 billion during the 2008–09 fiscal year on prison health care.
- (7) Freezing certain state salaries will help alleviate the budget shortfall currently facing the state.
- (8) Any state agency that receives moneys from the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) should not be allowed to use those moneys to increase the salaries of employees whose base salary is greater than the amount specified in subdivision (b).
- (b) Except as provided in subdivision (c), a person employed by the state whose base salary on or after the effective date of this section is greater than one hundred fifty thousand dollars (\$150,000) per year shall not receive either of the following:
- (1) A salary increase while employed in the same position or classification.
- (2) A bonus or other compensation in excess of that person's base salary.
 - (c) Subdivision (b) shall not apply to any of the following:
- (1) A person whose base salary or other compensation is governed by an operative memorandum of understanding entered into pursuant to Chapter 10.3 (commencing with Section 3512) or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or pursuant to another collective bargaining agreement.
- (2) A person employed in a classification that has been designated by the Governor to be necessary for protecting the safety and security of the people of California. The Governor shall make such a designation only by an executive order that lists the name of each individual to whom the order applies, his or her job elassification, and the reason for exempting the individual from the requirements of subdivision (a).
- (3) A person whose salary is set pursuant to the California Constitution.
- (d) For the purposes of this section, a "person employed by the state" means a person employed by the executive, legislative, or judicial branch of state government, an appointee to a state board or commission, and a person employed by the California State University system.

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(e) The Controller may reject a request for a disbursement of funds that violates this section.

- (f) The Legislature urges the Regents of the University of California and the Board of Directors of the Hastings College of the Law to adopt the policy expressed in this section for individuals employed by those entities.
- (g) This section shall not be enforced to the extent it is preempted by federal law.
- (h) This section shall become inoperative on the date that is 24 months after this section takes effect, and as of January 1 of the following year is repealed, unless a later enacted statute that is enacted before that date deletes or extends the dates on which it becomes inoperative and is repealed.
- SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that savings from salary freezes are realized at the earliest possible time, thereby helping to lessen the state budget deficit, it is necessary that this act take effect immediately.